

Notice of Allowability	Application No.	Applicant(s)	
	09/635,116	HUANG ET AL.	
	Examiner	Art Unit	
	Fred Ferris	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/24/2004.
2. ☒ The allowed claim(s) is/are 10,14,15,25 and 29-33.
3. ☒ The drawings filed on 09 August 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

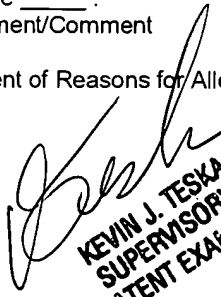
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>04/13/2004, 7/23/04, 7/26/04</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|--|


KEVIN J. TESKA
SUPERVISORY
PATENT EXAMINER

DETAILED ACTION

1. *This Office Action is responsive to applicant's second supplemental reply filed on 24 May 2004. Claims 10,14, 15, 25, and 29-46 are currently pending in this application. Applicants have cancelled claims 34-46 (See Attached Interview Summary). Claims 10,14, 15, 25, and 29-33 have now been allowed over the prior art of record.*

Response to Arguments

2. *Applicant's arguments filled 24 May 2004 have been fully considered and found to be persuasive.*

Regarding applicant's response to objections to the specification: *Applicant's arguments relating to incorporation by reference are persuasive. The examiner therefore withdraws the objection to the specification in view applicants arguments/declaration filed on 22 March 2004.*

Regarding applicant's response to 112(1) rejections: *The examiner withdraws the 112(1) rejection of claims 10 and 25 in view of the amendment to the claims and applicants arguments/declaration filed on 22 March, 31 March, and 24 May 2004 respectively.*

Regarding applicant's response to 112(2) rejections: *Applicants have amended claim 25 to remove the term "substantially balanced". Claim 26 has been cancelled. Accordingly, the 112(2) rejection is withdrawn.*

Regarding applicant's response to double patenting rejection: The examiner withdraws the double patenting rejection in view of the amendment to the claims and applicants arguments/declaration filed on 22 March 2004.

Regarding applicant's response to 102(a/e) and 103(a) prior art rejections: The examiner withdraws the prior art rejections of claims 10,14, 15, 25, and 29-33 in view of the amendment to the claims and applicant's arguments/declaration filed on 22 March, 31 March, and 24 May 2004 respectively.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. James Kurka (applicant's representative) on 1 July 2004.

- Applicants have canceled claims 34-46.

Allowable Subject Matter

4. Claims 10,14, 15, 25, and 29-33 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance:

Independent claims 10 and 25 use "means for" language and is given deference in view of *In re Donaldson* and interpreted in view of 35 U.S.C. § 112 paragraph 6. The

"means for" language and the limitations related thereto of claims 10 and 25 are interpreted within the scope of enablement as provided within the relative embodiment provided within applicant's specification. Specifically, independent claims 10 and 25 recites "means for" determining an axial force that is described by the specification in passages beginning on page 8, line 13 to page 12, line 19, and shown in Figures 3A and 3B. The examiner has therefore interpreted the "means for" determining an axial force as the specific sequence of steps disclosed within the embodiment of applicant's specification on page 8, line 13 to page 12, line 19, and shown in Figures 3A and 3B in distinguishing the claimed invention over the prior art of record. Claims 14, 15, and 29-33 are allowable as being dependent from claims 10 and 25 respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 703-305-9670 and whose normal working hours are 8:30am to 5:00pm Monday to Friday.*

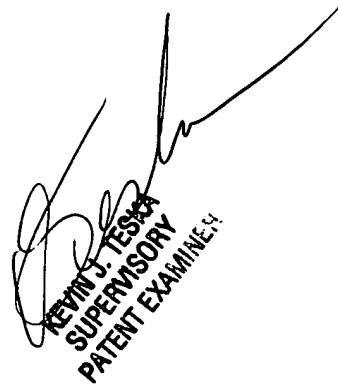
Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 703-305-3900.

The Official Fax Numbers are:

Art Unit: 2128

Official (703) 872-9306

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